

### **REMARKS**

In the Final Office Action, the Examiner rejected Claims 1, 2, 4-9, 13-14, and 19-22.

Claims 1, 2, 4-9, and 13-14 were rejected under 35 U.S.C. § 112, First Paragraph as failing to comply with the written description requirement. Claims 19-21 were rejected under 35 U.S.C. § 102(e) as anticipated by *Grunstein et al.* (U.S. 6,260,199). Claim 22 was rejected under 35 U.S.C. § 112, Second Paragraph as being indefinite and rejected under 35 U.S.C. § 103(a) over *Grunstein*. Claim 15 currently stands allowed, and Applicant thanks the Examiner for allowing Claim 15. In response to the Examiner's rejections, Applicant cancels rejected Claims 1, 2, 4-9, 13-14, and 22; amends Claims 19 and 21 to correct a typographical error; and adds new Claims 23-36.

Applicant respectfully asserts that Claims 19-21 and 23-36 are patentable over the cited references of record and respectfully requests reconsideration of the claims in light of the above presented amendments, following remarks, and Applicant's 37 C.F.R. § 1.131 declaration. No new matter is believed to be introduced by the above presented amendments. After entry of this Preliminary Amendment, Claims 15, 19-21, and 23-36 are pending in the Application.

#### **I. Previously Submitted Proposed Drawing Amendments**

Applicant previously submitted proposed Drawing Amendments in the 23 February 2004 Response and Amendment. The Examiner did not enter the proposed Drawing Amendments and asserted that the proposed amendments introduced new matter into the Application. Although Applicant believes that the proposed Drawing Amendments do not introduce new matter in the Application, Applicant withdraws the proposed Drawing Amendments without prejudice to facilitate prosecution of this Application. Applicant, therefore, respectfully submits that

withdrawal of the proposed Drawing Amendments obviates the necessity to submit replacement drawings to comply with current amendment procedures. Withdrawal of the objection to the drawings is respectfully requested.

**II. Claims 1, 2, 4-9, 13-14, and 22**

Applicant cancels Claims 1, 2, 4-9, 13-14, and 22 without prejudice to facilitate prosecution. Applicant believes that the cancellation of these claims obviates the need to respond to the Examiner's rejection to these claims.

**II. Claims 19-21**

The Examiner rejected Claims 19-21 in the 27 May 2004 Office Action under 35 U.S.C. § 102(e) as anticipated by *Grunstein et al.* (U.S. Patent No. 6,260,199). As the Examiner acknowledges, the effective § 102(e) reference date of a U.S. patent resulting from an international application filed before 29 November 2000 is the date that the international application satisfied the requirements of 35 U.S.C. § 371(c), Paragraphs 1, 2, and 4. *Grunstein* is a U.S. patent resulting from an international application filed prior to 29 November 2000. As shown on the cover page of the *Grunstein* patent, the effective § 102(e) reference date for *Grunstein* is 19 October 1999 since *Grunstein* satisfied the requirements of 35 U.S.C. § 371(c), Paragraphs 1, 2, and 4 on 19 October 1999.

In response to the §102(e) rejection, Applicant submits herewith a 37 C.F.R. §1.131 ("Rule 131") declaration to overcome the § 102(e) rejection to Claims 19-21. According to Rule 131, an Applicant may establish prior invention by showing facts that the Applicant reduced to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent

reduction to practice or to the filing of the application. Applicant's Rule 131 declaration and accompanying exhibits set forth facts sufficient to show that Applicant conceived prior to the 19 October 1999 effective date of *Grunstein*. (See Declaration of Patti C. Gilmer, ¶¶ 3-6).

Applicant's declaration and accompanying exhibits also set forth facts sufficient to show that Applicant exercised diligence in reducing the invention to practice or filing an application from a date prior to the effective date of *Grunstein*. (See Declaration of Patti C. Gilmer, ¶¶ 4 and 5-13).

Applicant respectfully submits that Applicant's Rule 131 declaration satisfies the requirements of Rule 131, and sets forth facts to show conception prior to the effective date of *Grunstein* coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. Therefore, Applicant respectfully requests removal of *Grunstein* and withdrawal of the § 102(e) rejection to Claims 19-21.

### **III. Claims 23-30**

Applicant adds new Claims 23-30 and these claims depend from independent Claim 19. Applicant respectfully asserts that Claims 23-30 are patentable over the cited references of record for the further limitations contained therein and because Applicant's Rule 131 declaration and accompanying exhibits set forth sufficient facts to antedate *Grunstein*. Applicant also respectfully asserts that Claims 23-30 do not introduce new matter and are supported by the originally filed specification.

### **IV. Claims 31-36**

Applicant adds new claims 31-36. Claims 31 and 36 are independent claims and Claims 32-35 depend from Claim 31. Independent Claims 31 and 36 are similar to independent Claim 19 and are believed to be allowable over the cited references of record because Applicant's Rule

131 declaration and accompanying exhibits set forth sufficient facts to antedate *Grunstein*.

Applicant also believes that Claims 32-35 are also allowable because they depend from Claim

31. Applicant respectfully asserts that Claims 31-36 do not introduce new matter and are supported by the originally filed specification.

### **FEES**

Applicant files this Preliminary Amendment along with a Request for Continued Examination within five (5) months of the Final Office Action. So, Applicant submits herewith a petition for a two-month time extension and a check in the amount of \$610.00 to cover the RCE fee (\$395.00) and the two-month time extension fee (\$215.00). No other fees are believed due, but the Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 20-1507.

**CONCLUSION**

The foregoing is a complete response to the Final Office Action mailed 27 May 2004. Applicant respectfully submits that Claims 15, 19-21, and 23-36 are patentable over the cited references of record and respectfully requests passing of this case in due course of patent office business. If the Examiner believes there are other issues that can be resolved by a telephone interview, or there are any informalities remaining in the application which may be corrected by an Examiner's amendment, a telephone call to Hunter Yancey at (404) 885-3696 is welcome.

Respectfully submitted,

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